

REMARKS

With this amendment, claims 13, 15, 17-21, 31, 43, 46, 53, 68-71, 74, and 77-79 are pending. Claims 1-12, 14, 16, 22-30, 32-42, 44, 45, 47-52, 54-67, 72, 73, 75, 76, and 80-88 are canceled.

With this amendment, claims 13, 20, 21, 31, 43, 46, 68, 69, and 74 are currently amended. Support for the amendment to claim 13 may be found, for example, in the application as filed in original claims 58, 68, and 76. Support for the amendment to claim 20 may be found, for example, in the application as filed in original claim 20. Support for the amendment to claim 21 may be found, for example, in the application as filed at page 4, paragraph [0014] and page 19, paragraph [0076], and in original claims 13, 16, and 21. Support of the amendment to claims 31 and 74 may be found, for example, in the application as filed at page 58, paragraph [0178]. Support for the amendment to claim 43 may be found, for example, in the application as filed in original claim 43. Support for the amendment to claim 46 may be found, for example, in the application as filed in original claim 46. Support for the amendment to claim 68 and 69 may be found, for example, in original claim 68. Support for the amendment to claim 69 may be found, for example, in original claim 68 and in original claim 15.

I. Objections to Previous Claim Amendments

The Office objects to claim 68 as previously having an incorrect claim status identifier, the claim having been amended, but the status identifier indicating that the claims was “original.”

With this amendment, claim 68 has been amended. The status identifier correctly identifies claim 68 as currently amended and the amendments to claim 68 reflect changes made as compared to the previously amended version of the claim as presented in Amendment A filed September 22, 2006.

II. Claim Objections

A. Claim 67

The Office objects to claim 67 for depending from a canceled claim.

With this amendment, claim 67 has been canceled. Accordingly, the Office's objection to claim 67 is rendered moot.

B. Claim 16

The Office objects to claim 16 as being of improper dependent form for failing to further limit the subject matter of a previous claim.

With this amendment, claim 16 has been canceled. Accordingly, the Office's objection to claim 16 is rendered moot.

III. 35 U.S.C. § 112, Written Description

Reconsideration is requested of the rejection of claims 13, 16-21, 31, 43, 46, 53, 67-71, 74, and 76-79 under 35 U.S.C. 112, first paragraph for lack of written description.

With this amendment, claims 16, 67, and 76 have been canceled. Accordingly, the Office's rejection as applied thereto is rendered moot.

The Office asserts that "for claims drawn to sequences exhibiting less than 100% sequence identity to SEQ ID NO: 1, Applicants have not fulfilled the written description requirement," stating that Applicant has not disclosed a representative number of species of sequences that can be used in antisense orientation to down regulate an endogenous gene; has not disclosed essential regions or conserved domains of SEQ ID NO: 1 that are specific to the genus of sequences that when used as antisense molecules will down regulate or inhibit expression of SEQ ID NO: 1; and has included functional language for which the metes and bounds cannot and have not been determined.¹ However, the Office also states that "for claims drawn to a transgenic plant cell transformed by an OBP antisense coding nucleic acid expression vector, wherein the expression vector comprises the OBP sequence of SEQ ID NO: 1 in antisense orientation, the written description requirement is fulfilled."²

¹ Office action mailed January 8, 2007, page 4.

² Office action mailed January 8, 2007, page 4.

Without further addressing the merits of the Office's rejection and in an effort to expedite prosecution and allowance of this application, with this amendment Applicant has amended independent claims 13, 31, 68, and 74 consistent with the Office's statements contained in the final Office action dated January 8, 2007, and the Office's suggestions made during Applicant's telephone interview of March 28, 2007 (discussed below). Specifically Applicant has amended these claims such that they are specific to OBP antisense coding nucleic acid sequences that are antisense to SEQ ID NO: 1 or its complement or sequences that encode the same amino acid as encoded by SEQ ID NO: 1, but which are degenerate in accordance with the degeneracy of the genetic code.

Claims 17-21, 43, 46, 53, 69-71, and 77-79 depend from claims 13, 31, 68, or 74 directly or indirectly and, therefore, incorporate the supported requirements of claims 13, 31, 68, or 74.

Accordingly, Applicant requests reconsideration and withdrawal of the rejection of claims 13, 16-21, 31, 43, 46, 53, 67-71, 74, and 76-79 under 35 U.S.C. 112, first paragraph as lacking written description.

IV. 35 U.S.C. § 112, Enablement

Reconsideration is requested of the rejection of claims 13, 15-21, 31, 43, 46, 53, 67-71, 74, and 76-79 under 35 U.S.C. 112, first paragraph for lack of enablement.

With this amendment, claims 16, 67, and 76 have been canceled. Accordingly, the Office's rejection as applied thereto is rendered moot.

The Office asserts that Applicant has not adequately enabled the claimed invention, asserting that determining which sequences fall outside the scope of Applicant's claims or which sequences are encompassed by Applicant's claims requires undue experimentation, that Applicant recites hybridization conditions which would result in the hybridization of sequences that do not work according to the claimed invention, and that Applicant has not disclosed how one skilled in the art can identify sequences that would be operable in the claimed invention.³

³ Office action mailed January 8, 2007, page 5.

Without further addressing the merits of the Office's rejection and in an effort to expedite prosecution and allowance of this application, with this amendment Applicant has amended independent claims 13, 31, 68, and 74 consistent with the Office's suggestions made during Applicant's telephone interview of March 28, 2007 (discussed below). Specifically Applicant has amended these claims such that they are specific to OBP antisense coding nucleic acid sequences that are antisense to SEQ ID NO: 1 or its complement or sequences that encode the same amino acid as encoded by SEQ ID NO: 1, but which are degenerate in accordance with the degeneracy of the genetic code.

Claims 15, 17-21, 43, 46, 53, 69-71, and 77-79 depend from claims 13, 31, 68, or 74 directly or indirectly and, therefore, incorporate the enabling requirements of claims 13, 31, 68, or 74.

Accordingly, Applicant requests reconsideration and withdrawal of the rejection of claims 13, 15-21, 31, 43, 46, 53, 67-71, 74, and 76-79 under 35 U.S.C. 112, first paragraph as lacking enablement.

V. Telephone Interview of March 28, 2007

Applicant and his undersigned counsel acknowledge and thank Examiner Baum for the courtesy extended during the March 28, 2007, interview. During this interview, the parties discussed the written description and enablement rejections and possible claims amendments to place the application in a condition for allowance. Applicant's undersigned attorney agreed to submit a response to the final Office action amending the claims consistent with the suggestions discussed during the interview.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the objection to claims 16, 67, and 68; of the rejection of claims 13, 16-21, 31, 43, 46, 53, 67-71, 74, and 76-79 under 35 U.S.C. 112, first paragraph, for lack of written description; and of the rejection of claims 13, 15-21, 31, 43, 46, 53, 67-71, 74, and 76-79 under 35 U.S.C. 112, first paragraph, for lack of enablement, and allowance of this application.

Applicant does not believe that a fee is due for this response, as it is being filed within the three-month shortened statutory period. However, should Applicant be incorrect, the Commissioner is hereby authorized to charge any necessary fee to Deposit Account No. 19-1345.

Respectfully submitted,

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